

386.382 Name of business trust.

- (1) Except as authorized by subsections (2) and (3) of this section, the name of a business trust or foreign business trust qualified to transact business in this Commonwealth shall be distinguishable from any name of record with the Secretary of State.
- (2) A business trust or foreign business trust may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records from one (1) or more of the names described in subsection (1) of this section. The Secretary of State shall authorize use of the name applied for if:
 - (a) The other business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or
 - (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.
- (3) A business trust or foreign business trust may use the name, including the fictitious name, of another business entity that is used in this Commonwealth if the other business entity is organized or authorized to transact business in this Commonwealth, and the business trust or foreign business trust:
 - (a) Has merged with the other business entity;
 - (b) Has been formed by reorganization of the other business entity; or
 - (c) Has acquired all or substantially all of the assets, including the business name, of the other business entity.
- (4) This chapter shall not control the use of assumed names.
- (5) The filing of a declaration of trust or an application to transact authority in the Commonwealth under the particular name of a business trust or foreign business trust shall not automatically prevent the use of that name or protect that name from use by other persons.

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